

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Stephon L. Hill) Civil Action No.: 2:11-3262-MGL
)
 Petitioner,)
)
 vs.) **O R D E R**
)
 Warden of Kirkland Correctional)
 Institution,)
)
 Respondent.

Plaintiff proceeding pro se, filed this habeas relief action pursuant to 28 U.S.C. § 2254. (ECF No. 1). This matter is before the court on Respondent's motion for summary judgment. (ECF No. 17.) In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Bruce Howe Hendricks for pre-trial proceedings and a Report and Recommendation. On October 12, 2012, Magistrate Judge Hendricks issued a Report recommending that Respondent's motion for summary judgment be granted that a certificate of appealability is denied. (ECF No. 29.) The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. (ECF No. 29 at 17.) Plaintiff has filed no objections and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. See *Mathews v. Weber*, 423 U.S. 261, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific

objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir.2005) (stating that "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.") (citation omitted).

After a thorough review of the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the court adopts and incorporates the Report and Recommendation (ECF No. 29) by reference into this order.

It is therefore ORDERED that the Respondent's motion for summary judgment is GRANTED.

It is further ORDERED that a certificate of appealability is denied because Plaintiff has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

November 1, 2012
Spartanburg, South Carolina